

**REDACTED DECISION -- 06-584 HP & 06-585 HP -- BY GEORGE V. PIPER,  
ALJ -- SUBMITTED for DECISION on JANUARY 09, 2007 -- JANUARY 25, 2007**

**SYNOPSIS**

**BROAD-BASED HEALTH CARE PROVIDER TAX -- TAXPAYER'S FAILURE TO CARRY BURDEN OF PROOF --** The taxpayer's failure to appear at hearing or to otherwise present any evidence respecting the claim set forth in its petition for reassessment will result in a denial of relief to the taxpayer. *See* W. Va. Code § 11-10A-10(e) [2002]; W. Va. Code St. R. §§ 121-1-63.1 and 69.2 (Apr. 20, 2003).

**FINAL DECISION**

On September 15, 2006, the Compliance Division ("the Division") of the West Virginia State Tax Commissioner's Office ("the Commissioner" or "the Respondent") issued a broad-based health care provider tax assessment against the Petitioner. This assessment was issued pursuant to the authorization of the State Tax Commissioner, under the provisions of Chapter 11, Articles 10 and 27 of the West Virginia Code. The assessment was for the period of January 1, 2004 through December 31, 2004, for tax of \$, interest, through September 15, 2006, of \$, and additions to tax of \$, for a total assessed liability of \$. Written notice of this assessment was served on the Petitioner as required by law.

Also on September 15, 2006, the Commissioner (by the Division) issued a broad-based health care provider tax assessment against the Petitioner, under the provisions of Chapter 11, Articles 10 and 27 of the West Virginia Code, for the period of January 1, 2005 through December 31, 2005, for tax of \$, interest, through September 15, 2006, of \$, and additions to tax of \$, for a total assessed liability of \$. Written notice of this assessment was served on the Petitioner as required by law.

Thereafter, by mail postmarked April 12, 2006, the Petitioner timely filed with this tribunal, the West Virginia Office of Tax Appeals, a petition for reassessment. *See* W. Va. Code §§ 11-10A-8(1) [2002] and 11-10A-9(a)-(b) [2005].

Subsequently, notice of a hearing on the petition was sent to the parties in accordance with the provisions of W. Va. Code § 11-10A-10 [2002] and W. Va. Code St. R. § 121-1-61-3.3 (Apr. 20, 2003).

There was no appearance in person on behalf of the Petitioner when the hearing was convened. The hearing was held, however, without such an appearance, *See* W. Va. Code § 11-10A-10(a)[2002] and W. Va. Code St. R. § 121-1-69.1 (Apr. 20, 2003).

### **FINDINGS OF FACT**

1. In its petition for reassessment, Petitioner argued that it had not conducted any business since it was incorporated.

2. At the hearing Respondent's counsel argued that Petitioner was slotted for broad-based health care provider taxes when it incorporated, but that it has never filed any returns and has never responded to Respondent's efforts to contact it about Petitioner's business operations.

### **DISCUSSION**

The only issue is whether the Petitioner has shown that the assessment is erroneous or otherwise invalid.

In this case, Petitioner provided absolutely no evidence proving that the broad-based health care provider tax assessments are erroneous.

### **CONCLUSIONS OF LAW**

Based upon all of the above it is **DETERMINED** that:

1. In a hearing before the West Virginia Office of Tax Appeals on a petition for

reassessment, the burden of proof is upon a Petitioner-taxpayer, to show that the assessment is incorrect and contrary to law, in whole or in part. *See* W. Va. Code § 11-10A-10(e) [2002] and, W. Va. Code St. R. § 121-1-69.2 (Apr. 20, 2003).

2. The Petitioner-taxpayer in this matter has failed to carry the burden of proving that the tax assessments are erroneous, unlawful, void, or otherwise invalid.

### **DISPOSITION**

**WHEREFORE**, it is the **FINAL DECISION** of the **WEST VIRGINIA OFFICE OF TAX APPEALS** that the broad-based health care provider tax assessment issued against the Petitioner for the period of January 1, 2004 through December 31, 2004, for tax of \$, interest of \$, and additions to tax of \$, **totaling \$**, should be and is hereby **AFFIRMED**.

It is **ALSO THE FINAL DECISION** of the **WEST VIRGINIA OFFICE OF TAX APPEALS** that the broad-based health care provider tax assessment issued against the Petitioner for the period of January 1, 2005, through December 31, 2005, for tax of \$, interest of \$, and additions to tax of \$, **totaling \$**, should be and is hereby **AFFIRMED**.

Pursuant to the provisions of W. Va. Code § 11-10-17(a) [2002], **interest accrues** on these tax assessments until the liabilities are fully paid.